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LEE MAX BARNETT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEE MAX BARNETT,

Petitioner,

v.

VINCENT CULLEN, ACTING WARDEN,
San Quentin State Prison

Respondent.

NO. CIV-S-99-2416 JAM CMK

ORDER DISMISSING UNEXHAUSTED
CLAIMS FROM THIRD AMENDED PETITION

DEATH PENALTY CASE

Pursuant to the Court's order dated April 29, 2010 (Doc. 295), Petitioner Lee Max Barnett has notified the Court that he elects to dismiss the unexhausted claims from his third amended petition (Doc. 183) without prejudice. Accordingly, IT IS HEREBY ORDERED that:

The following claims and parts of claims are dismissed from petitioner's third amended petition without prejudice:

- 1) The portions of Claim 13 relating to Turowski and Hammons (Third Amended Petition [Doc. 183] at 269-70, ¶¶ 997-1002), and ineffective assistance of counsel claims relating to

these witnesses (3d Am. Petn. at 170-71, ¶¶ 1003 & 1005);

- 2) The portion of Claim 54 regarding the anonymous letter (3d Am. Petn. at 439, ¶ 1512, including the claim of ineffective assistance of counsel relating to the anonymous letter (3d Am. Petn. at 441, ¶ 1517);
- 3) The portion of Claim 104 based on the newly discovered tape-recorded conversation between Petitioner and Gabryelski (3d Am. Petn. at 669, ¶ 2257 n. 206), including the claim of ineffective assistance of counsel (3d Am. Petn. at 672, ¶ 2265);
- 4) Claim 117; and
- 5) Claim 118.

Dated: June 14, 2010

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Judge